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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

REVEAL CHAT HOLDCO, LLC, a Delaware
limited liability company, USA TECHNOLOGY
AND MANAGEMENT SERVICES, INC. (d/b/a
Lenddo USA), a Delaware corporation, CIR.CL,
INC., a dissolved Delaware corporation, and
BEEHIVE BIOMETRIC, INC., a dissolved
Delaware corporation,

Plaintiffs,

v.

FACEBOOK, INC., a Delaware corporation,

Defendant.

Case No.: 5:20-cv-00363-BLF

**PLAINTIFFS' ADMINISTRATIVE
MOTION FOR LEAVE TO FILE
POST-HEARING LETTER BRIEF**

Plaintiffs bring this administrative motion under Civil Local Rule 7-11 for leave to file a post-hearing letter brief, attached as Exhibit A. *See* Civil L.R. 7-3(d) (filing of post-reply papers requires “prior Court approval”). Plaintiffs attempted but were unable to obtain a stipulation from defendant Facebook, Inc., for this requested relief. Grauman Decl. ¶¶ 2-3. Facebook declines to stipulate to this motion because, per Facebook, (1) it does not satisfy the criteria in either Local Rule 7-3(d) or Local Rule 7-11; (2) plaintiffs’ proposed letter brief contains no authority published after the date Facebook’s reply was filed; and (3) plaintiffs’ proposed letter brief discusses irrelevant issues, misstates the governing law, and is of no assistance to the Court.

At the June 11, 2020 hearing on Facebook’s motion to dismiss, the Court inquired of Plaintiffs’ counsel whether Plaintiffs were aware of any legal authority for the proposition that fraudulent concealment for tolling purposes can be based on an omission or “affirmative silence” rather than an affirmative misrepresentation. Hr’g Tr. 30-31 (Ex. B). In response, Plaintiffs’ counsel noted that the doctrine of concealment by omission was applied in *In re Glumetza Antitrust Litigation*, 2020 WL 1066934, at *7 (N.D. Cal. Mar. 5, 2020) (Alsup, J.). Hr’g Tr. 33-34 (Ex. B). Plaintiffs respectfully request leave to file a post-hearing letter brief to provide additional authority and context to aid the Court in its consideration of the issue of fraudulent concealment.

CONCLUSION

Plaintiffs respectfully request leave to file the attached post-hearing letter brief.

Dated: June 26, 2020

/s/ Brian J. Dunne
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ATTORNEY ATTESTATION

I, Brian Dunne, am the ECF User whose ID and password are being used to file this Administrative Motion and all attachments. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document and all attachments has been obtained from each signatory.

By: /s/ Brian Dunne